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Attorneys for Defendant, ERNST & YOUNG LLP

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

DAVID HO, on behalf of himself and others
 similarly situated and on behalf of the
 general public and DOES 1-20

Plaintiff,

v.

ERNST & YOUNG, LLP

Defendant.

JOSEPH LANDON individually and on
 behalf of all others similarly situated,

Plaintiff,

v.

ERNST & YOUNG LLP, a limited liability
 partnership; ERNST & YOUNG U.S. LLP, a
 limited liability partnership; and DOES 1-
 100, inclusive,

Defendant.

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Case No. CV 05-04867 JF (HRL)

**STIPULATION AND ~~PROPOSED~~
 ORDER STRIKING THE
 DECLARATIONS OF COLM DRISCOLL
 AND PAUL ESTRADA FROM
 PLAINTIFFS' MOTION FOR CLASS
 CERTIFICATION**

MICHELLE RICHARDS, on behalf 16 of
herself and all others similarly situated and
on behalf of the general public,

Plaintiff,

v.

ERNST & YOUNG LLP, and DOES - 50

Defendant.

C 08-4988 JF (HRL)

1 Plaintiffs Sarah Fernandez and Michelle Richards, and Defendant Ernst & Young LLP, by and
2 through their respective counsel, hereby agree and stipulate as follows:

3 **WHEREAS**, Plaintiffs submitted to the Court the Declarations of Colm Driscoll and Paul
4 Estrada (the "Declarations"), putative class members, and rely on those declarations in their Motion for
5 Class Certification;

6 **WHEREAS**, Defendant has attempted to take depositions of Driscoll and Estrada pursuant to
7 validly-issued subpoenas, but both witnesses have refused to appear;

8 **WHEREAS**, pursuant to Federal Rules of Civil Procedure 37 and 45, Defendant has moved in
9 the United States District Court for the Northern District of Illinois to compel Driscoll's testimony, and
10 intends to file a motion in the United States District Court of the Central District of California with
11 respect to Estrada;

12 **WHEREAS**, the parties have continued to meet and confer to attempt to resolve their
13 differences with respect to Driscoll's and Estrada's depositions;

14 **NOW THEREFORE**, the parties will, and hereby do, stipulate as follows:

- 15 1. Plaintiffs agree to withdraw the Declarations, to strike any references to the Declarations
16 from their Motion for Class Certification and all supporting documents filed therewith, and
17 to refrain from attaching or citing to the Declarations in Plaintiffs' reply papers on the
18 Motion for Class Certification; and

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2. Defendant will withdraw its Motion to Compel with respect to Driscoll, now pending in the United States District Court for the Northern District of Illinois, and not seek further enforcement of its subpoenas for Driscoll's and Estrada's appearances.

Respectfully submitted,

Dated: November 11, 2010

AKIN GUMP STRAUSS HAUER & FELD LLP

By /s/ Gregory W. Knopp

Gregory W. Knopp
Attorneys for Defendant,
ERNST & YOUNG LLP

Dated: November 11, 2010

FOLKENFLIK & McGERITY

By /s/ Max Folkenflik

Max Folkenflik
Attorneys for Plaintiffs David Ho, Sarah Fernandez and
Michelle Richards

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: 11/16, 2010

By



The Honorable Jeremy Fogel
JUDGE, UNITED STATES DISTRICT COURT

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is: 2029 Century Park East, Suite 2400, Los Angeles, California 90067. On November 11, 2010, I served the foregoing document(s) described as: **STIPULATION AND [PROPOSED] ORDER STRIKING THE DECLARATIONS OF COLM DRISCOLL AND PAUL ESTRADA FROM PLAINTIFFS' MOTION FOR CLASS CERTIFICATION** on the interested party(ies) below, using the following means:

All parties identified for Notice of Electronic Filing generated by the Court's CM/ECF system under the referenced case caption and number

☒ BY ELECTRONIC MAIL OR ELECTRONIC TRANSMISSION. Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the document(s) to be sent to the respective e-mail address(es) of the party(ies) as stated above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on November 11, 2010 at Los Angeles, California.

Rose Shushanyan

[Print Name of Person Executing Proof]

Rose Shushanyan

[Signature]